

## **REMARKS**

**[0002]** Applicant respectfully requests entry of the following remarks and reconsideration of the Application based on this submission under 37 C.F.R. §1.114 and the accompanying fee under 37 C.F.R. §1.17(e). Applicant respectfully requests entry of the amendments to the claims above. In addition, Applicant respectfully requests reconsideration and allowance of all of the claims of the Application. Claims 1-9 and 12-35 are presently pending. Claims 1, 5-6, 14-17, 19, 23, 31, and 35 are amended and claims 10-11 are canceled. No claims are added.

### **Formal Request for an Interview**

**[0003]** If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can discuss this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

**[0004]** Please contact me to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for me, I welcome your call as well. My contact information may be found on the last page of this response.

### **Allowable Subject Matter**

**[0005]** Applicant would like to thank the Examiner for allowing claims 14-30. In addition, Applicant would like to thank the Examiner for indicating that claims

10-12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Claim Amendments**

**[0006]** Without conceding the propriety of the rejections and in the interest of expediting prosecution, Applicant amends claims 1, 5-6, 14-17, 19, 23, 31, and 35. The amendments are made to expedite prosecution and more quickly identify allowable subject matter. The amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed features in response to the cited references.

**[0007]** The claim amendments are fully supported by the application as originally filed and do not include new matter. For example, the amendments to claim 1 are at least supported by page 3, line 17 – page 4, line 6; page 18, lines 12-18; and claim 10 of the originally filed application. In addition, the amendments to claim 14 are at least supported by page 3, line 17 – page 4, line 6 and page 18, lines 12-18 of the originally filed application. Further, the amendments to claim 19 are at least supported by page 12, lines 15-18 and page 14, lines 15-22 of the originally filed application. The amendments to claim 35 are at least supported by page 18, lines 12-18 and claim 11 of the originally filed application.

**[0008]** Applicant has amended allowed claims 14-17, 19, 23, and 31 with respect to 35 U.S.C. §101 in light of the holding of *In re Bilski*, 545 F.3d 943, 88 U.S.P.Q.2d 1385. Applicant respectfully submits that the amendments to claims 14-17, 19, 23, and 31 do not change the scope of these claims with respect to

the cited art and that the allowance of claims 14-30 should not be affected by the amendments to claims 14-17, 19, 23, and 31.

## **SUBSTANTIVE MATTERS**

### **Anticipation Rejections**

[0009] Applicant respectfully requests that the Examiner withdraw the anticipation rejections of claims 1-9, 13, 31, 33, and 35 because, for each rejected claim, no single reference discloses each and every element of that rejected claim.<sup>1</sup> Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.<sup>2</sup>

### **Based upon White**

[0010] The Action rejects claims 1-9 and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,392,664 ("White"). Applicant respectfully traverses this rejection. In particular, Applicant has amended claim 1 to include the subject matter of claim 10. Since page 5 of the Action indicates that claim 10 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, Applicant respectfully submits that claim 1 and its dependent claims, claims 2-9, 12, and 13 are also allowable. Accordingly, Applicant asks the Examiner to withdraw the rejections of these claims.

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<sup>1</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

<sup>2</sup> See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

### **Based upon Walker**

**[0011]** The Action rejects claims 1, 31, 33, and 35 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0160465 ("Walker"). Applicant respectfully traverses this rejection. In particular, Applicant has amended independent claim 1 to include the subject matter of claim 10. Since page 5 of the Action indicates that claim 10 is allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, Applicant respectfully submits that claim 1 is allowable. Further, Applicant has amended independent claim 31 to include the subject matter of claim 11. Since page 5 of the Action indicates that claim 11 is allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, Applicant respectfully submits that claim 31 and its dependent claims, claims 33 and 35 are also allowable. Accordingly, Applicant asks the Examiner to withdraw the rejections of these claims.

## **Obviousness Rejections**

### **Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)**

[0012] The arguments presented below point to various aspects of the record to demonstrate that all of the criteria set forth for making a *prima facie* case have not been met.

### **Based upon Walker and Russ**

[0013] The Examiner rejects claims 32 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Walker in view of U.S. Patent Application Publication No. 2004/0060063 ("Russ"). Applicant respectfully traverses the rejections of these claims. In particular, claims 32 and 34 depend from claim 31 and since claim 31 has been amended to include the allowable subject matter of claim 11, Applicant respectfully submits that claims 32 and 34 are also allowable.

## **Conclusion**

[0014] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the Application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call or email me at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC  
Representatives for Applicant

/Trevor E. Lind/ \_\_\_\_\_ Dated: March 10, 2009

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